

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/IL2005/000210

International filing date (day/month/year)
20.02.2005

Priority date (day/month/year)
24.02.2004

International Patent Classification (IPC) or both national classification and IPC
A61B18/04

Applicant
APPLISONIX LTD.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/IL2005/000210

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-24,77-248, 101-152, 177-228

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 1-24,77-248, 101-152, 177-228
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 25-76,249-301

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	26-76,250-301
	No: Claims	25,249
Inventive step (IS)	Yes: Claims	26-32,62-70,251-254,287-295
	No: Claims	33-61,71-76,250,255-286,296-301
Industrial applicability (IA)	Yes: Claims	25-76,101-152,177-228,249-301
	No: Claims	1-24,77-248, 101-152, 177-228

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IL2005/000210

Re Item III.

No Search Report has been established in respect of claims 1-24,77-100,153-176,229-248 under Article 17(2)(a) PCT, because these Claims relate to a excluded subject matter under Rule 39.1(iv) PCT.

Further,claims 1-24,77-100,153-176,229-248 do not meet the requirement of the Rule 67 (iv) PCT, because the subject-matter of claims 1-24,77-100,153-176,229-248 appears to relate to a method for treatment of a human or animal body by surgery and by therapy, which is an excluded matter (e.g. damage or destroy follicle). Therefore no examination is performed in view of Article 34.4(a)(i) PCT.

Said claims should be deleted from the application.

Re Item IV.

The separate groups of inventions are:

claims 25-76, 249-301

treating hair through heating.

claims 101-152

treating hair through gripping.

claims 177-228

treating hair through vibrations minimizing of the hair.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

Claim group 25-76, 249-301, claim group 101-152 and claim group 177-228 do not appear to define any common concept binding the respective three subject matters of said three claim groups, which common concept could acknowledge an inventive ingenuity over first cited the prior art.

Therefore the present application lacks unity.

Re Item V.

1 Reference is made to the following document:

D1: US-A-5 143 063 (FELLNER ET AL) 1 September 1992 (1992-09-01)

D2: US 2002/055693 A1 (THOMPSON TODD A ET AL) 9 May 2002 (2002-05-09)

The document D1 is regarded as being the closest prior art to the subject-matter of independent device claims 25 and 249, and discloses a device using ultrasonic waves for generating heat in order to destroy cells which is suitable to remove hair.

Thus, D1 specifies all the features of claims 25 and 249 of the present application. Therefore the present application does not meet the requirement of Article 33(2) PCT because the subject-matter of claims 25 and 249 is not novel.

Dependent claims 33-61, 71-76, 250, 255-286, 296-301 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Art. 33(3) PCT, because said features relate more to constructional details without surprising effect.

Re Item VII.

The claims 25 and 249 might lack conciseness as required by Art. 6 PCT.

Two or more independent claims in the same category are allowable where it is not appropriate, having regard to the subject matter of the application, to cover this subject matter by a single (generic) independent claim.

In this application it would be appropriate to have only one independent claim.

The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed.

Reference signs of the drawings should be mentioned in the claims to these features.

Documents **D1 should be identified** in the description and the relevant background art disclosed therein should be briefly discussed.

Independent claims are not in the **two-part form**, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble and with the remaining features being included in the characterising part.

The dependant claims should be drafted having regard to the new independent claim.